

CHAPTER 32

DEBT REFERRALS OUTSIDE THE DEPARTMENT OF DEFENSE3201 REFERRALS TO THE GENERAL ACCOUNTING OFFICE AND THE DEPARTMENT OF JUSTICE

320101. Debts Which Will Be Referred. DoD Components will refer to the DOJ any debt where there is an indication of fraud or the presentation of a false claim. The DOJ must authorize collection action on these debts. Except where preliminary referral to GAO is provided in paragraphs 320104 and 320105 below, debts on which aggressive collection action has been taken according to this Regulation and which cannot be compromised, suspended, or terminated, will be referred promptly, without prior GAO referral, to the DOJ for litigation. The DOJ establishes minimum dollar thresholds for referring these debts.

320102. Timing. Referrals will be made as early as possible consistent with collection actions and will be made well within the time limit for bringing suit against debtors. Ordinarily, referrals will be made within 1 year of creditor organizations' final determinations as to facts and amounts of debts.

320103. Department of Justice Referral Addresses. Debts with an original gross amount of \$100,000 or more will be referred to the DOJ Central Intake Facility.

320104. Debts Arising From GAO Exceptions. Debts arising from exceptions taken by the GAO to payments made by DoD Component DOs will be referred to the GAO for review before referral to the DOJ for litigation.

320105. Questionable Debts. Questionable debts will be referred to the GAO for resolution or instructions before collection actions or referral to the DOJ for litigation. DoD Components will follow instructions and observe monetary limitations in the GAO Policy and Procedures Manual for Guidance of Federal Agencies (reference (x)) when making preliminary referrals to GAO. Questionable debts include those where there is doubt as to:

- A. Merits or amount of a debt.
- B. Propriety of proposed compromise.
- C. Propriety of suspending or terminating collection action.

320106. Claims Collection Litigation Report. DoD Components will use Claims Collection Litigation Reports, prescribed by the DOJ, for making preliminary referrals to the GAO and referring debts to the DOJ for litigation. A checklist or brief summary of action taken to collect or compromise debts and, if any administrative collection actions required by the Federal Claims Collection Standards, 4 C.F.R. 102, (reference (bb)) are not complied with, reasons for omitting the requirements will accompany reports. Reports will include debtors' current addresses. Reasonable steps will be taken to locate missing debtors. Referrals to the DOJ for foreclosure or other proceedings, in which a debtor's address is unknown, will include a list of prior known addresses and a statement of steps taken to locate the debtor. Reasonably current credit data will also be included in reports. Debtors' credit should indicate there is reasonable prospect of enforcing debt collection having due regard for exemptions available under federal and state laws and judicial remedies available to the Government. Credit data must be in one of the following forms:

- A. A commercial credit report.
- B. An investigative report showing debtor's assets, liabilities, income, and expenses.
- C. A debtor's own financial statement, executed under penalty of perjury, showing assets, liabilities, income, and expenses.

320107. Criteria for Omitting Claims Collection Litigation Report Credit Data. DoD Components may omit credit data from a Claims Collection Litigation Report if: a debtor is bankrupt or in receivership; a debtor's liabilities to the DoD Component are fully covered by insurance, in

which case, the referring organization will provide information on the insurer's identity and address and the type and amount of insurance; or, the nature of a debtor is such that credit data is not normally available or cannot be reasonably obtained, for example, a state or local government unit.

320108. Contacting Debtors After Referral. Once debts have been referred to the GAO or the DOJ, DoD Components will refrain from contact with referred debtors. Debtors who raise questions pertaining to these debts will be referred to the GAO or the DOJ as appropriate. DoD Components will immediately notify the agency holding the debt of any payments received subsequent to referral.

3202 DEBT REFERRALS TO PRIVATE COLLECTION AGENCIES

320201. Authority To Use Private Collection Agencies. Centralized debt collection organizations may use private collection agencies to supplement their debt collection programs.

320202. Contracting for Private Collection Agency Services. Contracts awarded by a DoD Component for private collection agency services will have the following minimum provisions:

A. The DoD Component will retain authority to resolve disputes, compromise debts, suspend and terminate collection activity, and refer debts to credit bureaus and to the DOJ for litigation.

B. Contractors will be subject to the Privacy Act of 1974 to the extent specified in 5 U.S.C. 552a(m) and other federal and state regulations and laws.

C. Contractors will be required to account strictly for all amounts collected.

D. Contractors will record all collection activity for each debt and provide, when available, any information needed by the DoD Component to complete a claims collection litigation report.

E. Contracts will specify minimum requirements for the following collection activities:

1. Locating and contacting debtors.
2. Installment payments.
3. Returning uncollectible debts to the DoD Component.

F. Contractors will be required to calculate, assess, collect, and return to the DoD Component, interest, penalties and administrative charges as specified in this Regulation.

320203. Collection Contract Funding. Collection agency contracts awarded by a DoD Component will normally be funded by contingency fees. Fees will be based on a percentage of collections and will be consistent with prevailing commercial rates. Collection agency contracts awarded by a DoD Component may be funded on a fixed-fee basis but only to the extent funds are available in advance appropriations or other legislation.

320204. Referring Government Employees. DoD Components will not normally refer U.S. Government employees to commercial collection agencies. However, such referral is not precluded.

3203 DEBT REFERRALS TO COMMERCIAL CREDIT BUREAUS

320301. Authority To Refer Debtors. Centralized debt collection organizations authorized to terminate or write-off debts will report the following debt categories to commercial credit bureaus:

A. Delinquent debts which are not feasible to collect.

B. Debts referred to the GAO for collection.

C. Debts referred to the DOJ for litigation.

320302. Due Process Protection. Before referring debts to commercial credit bureaus, DoD Components will ensure debtors are provided due process. Debtors will be provided a minimum of 60-days' advance notice before debts are referred.

320303. Maintaining Referred Debts Current. The referring organization will notify credit bureaus when there is a substantial change to a referred debt. Referring organizations will establish procedures to promptly disclose current information on debts when requested by credit bureaus to which debts were referred.

320304. Maintenance of Debt Records. Records for debts referred to commercial credit bureaus on which no other collection action will be taken will be retained for 13 months for commercial debts or 7 years for individual debts.

3204 DEBT REFERRALS TO THE INTERNAL REVENUE SERVICE FOR TAX REFUND OFFSET

320401. Authority To Refer Debts. Title 31, U.S.C., section 3720A (reference (o)) authorizes the IRS to collect certain past due and legally enforceable debts by offset against tax refunds. Referring organizations will comply with agreement between the IRS and DoD for implementing and administering tax refund offset. The single DoD manager and contact point for the program is DFAS Denver Center (DFAS-DE/Y).

320402. Due Process and Certification. Before referring debts for tax refund offset, all debtor due process protections and notifications afforded by statute, regulation, or agreement will be satisfied. Certification of compliance will be furnished the IRS as required by statute, regulation, or agreement.

320403. Maintaining Referred Debts Current. Periodic updates to data submitted under this program will be furnished the IRS as required by statute, regulation, or agreement.

320404. Access To and Use of Tax Information. Federal officers or employees operating or using this debt collection process must be made aware that access to and use of confidential tax information in connection with offset of federal tax overpayment under IRS Code, section 6402(d), is restricted by section 6103 of the IRS Code. Confidential tax information received must be adequately safeguarded. Personnel who access or use confidential tax information must be

informed of these restrictions and of the sanctions or penalties that may be imposed for violation of restrictions on access and use of tax information.

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